

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

LAKE OZARK-OSAGE BEACH JOINT SEWER BOARD, ET AL.

Appellants

v.

MISSOURI DEPARTMENT OF NATURAL RESOURCES, LAND RECLAMATION  
COMMISSION AND MAGRUDER LIMESTONE CO., INC.

Respondents

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DOCKET NUMBER WD78869

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

DATE: June 14, 2016

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Appeal From:

Circuit Court of Miller County, MO  
The Honorable Sanford Francis Conley, IV, Judge

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Appellate Judges:

Division Three  
Gary D. Witt, P.J., James Edward Welsh, and Anthony Rex Gabbert, JJ.

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Attorneys:

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Counsel for Appellants

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Attorneys:

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Resources and MO. Land Reclamation Commission

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**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**LAKE OZARK-OSAGE BEACH JOINT SEWER BOARD, ET AL., Appellants, v.  
MISSOURI DEPARTMENT OF NATURAL RESOURCES, LAND RECLAMATION  
COMMISSION AND MAGRUDER LIMESTONE CO., INC., Respondents.**

**WD78869**

**Miller County**

Before Division Three Judges: Witt, P.J., Welsh, and Gabbert, JJ.

The Lake Ozark-Osage Beach Joint Sewer Board and Larry and Vicky Stockman appeal the circuit court's judgment affirming the Missouri Land Reclamation Commission's decision to grant Magruder Limestone Co., Inc., a permit to operate a limestone quarry on a site adjacent to a wastewater treatment plant owned and operated by the Lake Ozark-Osage Beach Joint Sewer Board, subject to certain conditions.

**Affirmed.**

**Division Three holds:**

The Commission did not err in granting Magruder's permit after removing and modifying conditions that were recommended by the hearing officer appointed by the Commission. The Land Reclamation Act leaves the decision to grant or deny the permit solely to the discretion of the Commission. The Commission was not required to issue its own decision with findings of fact and conclusions of law after modifying the recommended decision; the elimination and modification of some conditions did not render the entire decision unsupported by competent and substantial evidence; and the Commission was not required to adopt all the suggested conditions for Magruder to satisfy its burden of proof.

The Commission did not err in granting Magruder's permit due to the hearing officer's (and, ultimately, the Commission's) decision to add conditions to the permit. *Saxony Lutheran High School, Inc. v. Missouri Department of Natural Resources*, 404 S.W.3d 902 (Mo. App. 2013), held that the Commission had the authority to impose a condition on a permit to operate a mine, and the legislature has since amended the statutes to now explicitly authorize the Director to impose such conditions. Thus, the Commission had the authority to impose conditions on Magruder's permit.

Opinion by James Edward Welsh, Judge

June 14, 2016

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<b>THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.</b>
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